UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PETER PAUL BIRO, Plaintiff,	:	Index No. 11-CV-04442 (JPO)
-against-	:	ECF Case
CONDÉ NAST, a division of ADVANCE MAGAZINE PUBLISHERS INC., *at al.* Defendants.	:	**DECLARATION OF JULIA C. ATCHERLEY IN SUPPORT OF MOTION FOR ORDER DECLARING PLAINTIFF TO BE A PUBLIC FIGURE**

I, JULIA C. ATCHERLEY, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney associated with the firm Levine Sullivan Koch & Schulz, LLP. I am duly admitted to the practice of law before this Court and have entered my appearance on behalf of defendants Advance Magazine Publishers Inc. and David Grann (the "Advance Defendants").

2. I submit this declaration to place before the Court certain publicly available information in support of the motion by the Advance Defendants for an order finding Plaintiff Peter Paul Biro to be a public figure for purposes of this libel lawsuit.

Information Published on Plaintiff's Website

3. Attached hereto as **Exhibit 1** is a true and correct copy of the "Home" page from Plaintiff's website, publically accessible at www.peterpaulbiro.com, that was printed on November 05, 2012.

4. Attached hereto as **Exhibit 2** is a true and correct copy of the "Capabilities" page from Plaintiff's website, publically accessible at www.peterpaulbiro.com, that was printed on November 05, 2012.

Examples of Publications and Lectures by Plaintiff

5. Attached hereto as **Exhibit 3** is a true and correct copy of the "Projects and publications" page from Plaintiff's website, publically accessible at www.peterpaulbiro.com, that was printed on October 16, 2012, and which identifies the following lectures and presentations by Plaintiff relating to forensic art authentication:

a. "Art and Microscopy," Royal Microscopical Society National Portrait Gallery, London, November, 2005.

b. "Appraising: Understanding Science and Authentication," Appraisers Association of America National Conference, New York, November, 2005.

c. "Authenticity and Conservation," University of Glasgow, U.K., March, 2006.

6. Attached hereto as **Exhibit 4** is a true and correct copy of an article authored by Plaintiff entitled "Forensics and Microscopy in Authenticating Works of Art," published in *InFocus* magazine, Issue 1, dated March, 2006, and available at http://www.peterpaulbiro.com/InfocusMarch2006%20(2).pdf.

7. Attached hereto as **Exhibit 5** is a true and correct copy of a chapter written by Plaintiff from the book co-authored by Martin Kemp and Pascal Cotte, entitled "La Bella Principessa: The Story of the New Masterpiece by Leonardo Da Vinci" published by Hodder & Stoughton, dated March 1, 2010, and available at http://www.peterpaulbiro.com/PPBLaBellaChapter8.pdf.

8. Attached hereto as **Exhibit 6** is a true and correct copy of an essay written by Plaintiff entitled "Fingerprinting Jackson Pollock?" published in *Pollock Matters* edited by Ellen G. Landau and Claude Cernuschi, and published by The McMullen Museum of Art Boston College, available at http://www.peterpaulbiro.com/PollockMatters.pdf.

9. Attached hereto as **Exhibit 7** is a true and correct copy of an article by Plaintiff entitled "Teri's Find: A Forensic Study in Authentication" published in 2007, available at http://www.peterpaulbiro.com/Pollock.html.

Plaintiff's Online Commentary

10. Attached hereto as **Exhibit 8** is a true and correct copy of an online "Blog" authored by Plaintiff, publically accessible at www.peterpaulbiro.com, that was printed on October 30, 2012.

Selected Film and Television Interviews of Plaintiff

11. Attached hereto as **Exhibit 9** is a true and correct copy of the documentary film "Who the #$&% is Jackson Pollock?" directed by Harry Moses and publicly released November 9, 2006, which feature's Plaintiff's commentary on his use of forensic science to authenticate a painting he believes to be the work of famed American artist Jackson Pollock.

12. Attached hereto as **Exhibit 10** is a true and correct copy of the transcript of an interview of Plaintiff that was featured on 60 Minutes, in a segment entitled "Thrift Shop Masterpiece," first televised on May 6, 2007 at 7.00p.m. on the CBS television network.

13. Attached hereto as **Exhibit 11** is a true and correct copy of the transcript of an interview of Plaintiff conducted by Anderson Cooper that was featured in a segment on AC 360, first televised on May 8, 2007 at 10.00p.m. on CNN.

Selected News Articles Quoting Plaintiff

14. Attached hereto as **Exhibit 12** is a true and correct copy of an article by Kristina Sauerwein entitled "The Case of the 'Ugly' Painting" published by *The LA Times*, dated July 17, 2003, and available at http://articles.latimes.com/2003/jul/17/local/me-artsleuth17, quoting Plaintiff on his use of fingerprint analysis to authenticate an artwork.

15. Attached hereto as **Exhibit 13** is a true and correct copy of an article by Chris Reed entitled "Trucker's arty joke could fetch $20m" published by *The Observer* for *The Guardian* (London), dated July 26, 2003, and available at http://www.guardian.co.uk/world/2003/jul/27/arts.usa, quoting Plaintiff on his role in authenticating a suspected Jackson Pollock painting.

16. Attached hereto as **Exhibit 14** is a true and correct copy of an article by Christopher Reed entitled "Painting may sell for $20m - or $5" published by *The Age* (Australia), dated July 27, 2003, and available at http://www.theage.com.au/articles/2003/07/26/1059084254455.html, quoting Plaintiff on his role in authenticating a suspected Jackson Pollock painting using fingerprint analysis.

17. Attached hereto as **Exhibit 15** is a true and correct copy of an article entitled "Art restorer points own finger: Peter Paul Biro, hired to help authenticate two purported Jackson Pollock paintings in recent years, is convinced he's being accused of using forged fingerprints on one of the works" published by *The Gazette* (Montreal), dated May 9, 2008, and available at http://www.canada.com/montrealgazette/news/arts/story.html?id=469287e5-2d2c-46f4-a52d-39a3b58bde9f, quoting Plaintiff's response to allegations that forgery was used to bolster the authentication of an alleged Jackson Pollock painting.

18. Attached hereto as **Exhibit 16** is a true and correct copy of an article by Sylvia Hochfield entitled "The Blue Print: A 50-year-old fingerprint on the side of a paint can fuels an attribution to Jackson Pollock—and charges of forgery" published by *Art News*, dated June 1, 2008, and available at http://www.artnews.com/2008/06/01/the-blue-print/, quoting Plaintiff on his use of forensic science and fingerprint analysis in authenticating an alleged Jackson Pollock painting.

19. Attached hereto as **Exhibit 17** is a true and correct copy of an article entitled "Is it a fake or could it be a load of old Pollocks?" published by the *Daily Mail* (UK), dated November 8, 2006, and available at http://www.dailymail.co.uk/news/article-415229/Is-fake-load-old-Pollocks.html, quoting Plaintiff on the value of fingerprint analysis in authenticating artworks.

20. Attached hereto as **Exhibit 18** is a true and correct copy of an article entitled "An Interview with Teri Horton and Peter Paul Biro of Who the #$&% is Jackson Pollock?" published by *Art Fag City*, dated November 15, 2006, and available at http://www.artfagcity.com/2006/11/15/an-interview-with-teri-horton-and-peter-paul-biro-of-who-the-is-jackson-pollock/, quoting Plaintiff on his use of forensic science, and the reliability of fingerprint identification, in authenticating artworks.

21. Attached hereto as **Exhibit 19** is a true and correct copy of an article by Laura Spinney, entitled "Interview: the art detectives; Meet the sleuths who are shaking up with art world by using science to fight forgery" published by *New Scientist* (UK), dated April 25, 2009, quoting Plaintiff on his use of physical evidence, such as DNA, pigment analysis and fingerprint identification, to authenticate paintings.

22. Attached hereto as **Exhibit 20** is a true and correct copy of an article by Randy Boswell entitled "Canadian expert claims new da Vinci drawing found" published by Canwest

News Service (Canada), dated October 13, 2009, quoting Plaintiff on the growing importance of scientific techniques in the art authentication, and his role in identifying a fingerprint he believes to belong to Leonardo da Vinci, for purposes of authenticating an alleged da Vinci painting.

23. Attached hereto as **Exhibit 21** is a true and correct copy of an article entitled "Fingerprint may lead to new da Vinci discovery" published by *USA Today*, dated October 14, 2009, and available at http://usatoday30.usatoday.com/news/world/2009-10-14-new-da-vinci-fingerprint_N.htm, quoting Plaintiff on his use of use of multispectral images to identify readable fingerprints, for purposes of attributing a work to Leonardo da Vinci.

24. Attached hereto as **Exhibit 22** is a true and correct copy of an article entitled "Art Experts Claim New da Vinci Found" published by CBSNews.com, dated October 14, 2009, and available at http://www.cbsnews.com/2100-202_162-5383189.html, quoting Plaintiff on the value of fingerprint identification for authenticating artworks.

25. Attached hereto as **Exhibit 23** is a true and correct copy of an article by John Harlow and Rosie Kinchen entitled "Row over flawed fingerprint test for masterpieces" published by *The Sunday Times* (UK), dated July 18, 2010.

Additional Selected News Coverage of Plaintiff

26. Attached hereto as **Exhibit 24** is a true and correct copy of an article entitled "Fingerprint Tech IDs Leonardo da Vinci" published by Fox News, dated October 13, 2009, and available at http://www.foxnews.com/scitech/2009/10/13/fingerprint-tech-ids-leonardo-da-vinci/.

27. Attached hereto as **Exhibit 25** is a true and correct copy of an article by Dan Fletcher entitled "How Do Experts Authenticate Art?" published by *TIME.com*, dated October 15, 2009, and available at http://www.time.com/time/arts/article/0,8599,1930303,00.html.

28. Attached hereto as **Exhibit 26** is a true and correct copy of an article entitled "Possible New Leonardo Drawing, 'Profile of the Bella Principessa,' Found" published by *The Huffington Post*, dated March 18, 2010, and available at http://www.huffingtonpost.com/2009/10/14/possible-new-leonardo-dra_n_321328.html.

29. Attached hereto as **Exhibit 27** is a true and correct copy of an article by Julie Janovsky, entitled "Tribune Exclusive" published by *East Valley Tribune* (Arizona), dated July 27, 2008.

30. Attached hereto as **Exhibit 28** is a true and correct copy of an article by Lukas I. Alpert entitled "You don't know Jack!: CSI vet fingers Pollock pro as fraud" published by *The New York Post*, dated April 18, 2008, and available at http://www.nypost.com/p/news/regional/item_QxkSrmh1Ei4x6QafyxgDGM.

31. Attached hereto as **Exhibit 29** is a true and correct copy of an article by Geoff Edgers entitled "Jackson Pollock mystery gets its first airing" published by *The New York Times*, dated August 31, 2007, and available at http://www.nytimes.com/2007/08/31/arts/31iht-pollock.1.7330005.html.

32. Attached hereto as **Exhibit 30** is a true and correct copy of an article by Geoff Edgers entitled "Now you can decide for yourself: A controversial cache of drip paintings is unveiled for the first time at BC. The question remains: Did the famed Abstract Expressionist create them?" published by *The Boston Globe*, dated August 26, 2007, and available at http://www.boston.com/ae/theater_arts/articles/2007/08/26/now_you_can_decide_for_yourself/?page=full.

33. Attached hereto as **Exhibit 31** is a true and correct copy of an article by Simon A. Cole entitled "A Little Art, A Little Science, A Little 'CSI" published by *The New York Times*, dated December 31, 2006.

34. Attached hereto as **Exhibit 32** is a true and correct copy of an article entitled "It's a fun splatter picture" published by *The New York Post*, dated November 15, 2006.

35. Attached hereto as **Exhibit 33** is a true and correct copy of an article by Randy Kennedy entitled "Could Be a Pollock; Must Be a Yarn" published by *The New York Times*, dated November 9, 2006, and available at http://www.nytimes.com/2006/11/09/arts/design/09poll.html?_r=0.

36. Attached hereto as **Exhibit 34** is a true and correct copy of an article by Kristina Sauerwein entitled "Dribbles could open gush of cash; Teri Horton's $5 buy might be a valuable Jackson Pollock" published by the *Chicago Tribune*, dated July 22, 2003.

37. Attached hereto as **Exhibit 35** is a true and correct copy of an article by Rob Gillies entitled "Leonardo fingerprint reveals $150 million artwork" published by *The Seattle Times* in Toronto, dated October 14, 2009, and available at http://seattletimes.com/html/entertainment/2010059398_apcncanadadavincidiscovery.html.

38. Attached hereto as **Exhibit 36** is a true and correct copy of an article entitled "Fingerprint on portrait has link to Leonardo da Vinci" published by CBC News (Montreal), dated October 13, 2009, and available at http://www.cbc.ca/news/canada/montreal/story/2009/10/13/portrait-leonardo.html?ref=rss.

39. Attached hereto as **Exhibit 37** is a true and correct copy of an article by James Adams entitled "Montreal art expert identifies da Vinci drawing" published by *The Globe and Mail* (Canada), dated October 13, 2009, and available at

http://www.theglobeandmail.com/arts/montreal-art-expert-identifies-da-vinci-drawing/article4288665/.

40. Attached hereto as **Exhibit 38** is a true and correct copy of an article by Randy Boswell, entitled "Canadian expert claims new da Vinci drawing found" published by *Canwest News Service* (Canada), dated October 13, 2009.

41. Attached hereto as **Exhibit 38** is a true and correct copy of an article by Val Ross entitled "Buried treasure verified by science Montreal restorers rely on fingerprint experts" published by *The Globe and Mail* (Canada), dated January 12, 1996.

42. Attached hereto as **Exhibit 39** is a true and correct copy of an article by Richard Dorment entitled "La Bella Principessa: a £100m Leonardo, or a copy?" in *The Telegraph* (UK), dated April 12, 2010, and available at http://www.telegraph.co.uk/culture/art/7582591/La-Bella-Principessa-a-100m-Leonardo-or-a-copy.html.

43. Attached hereto as **Exhibit 40** is a true and correct copy of an article by Helen Pidd entitled "New Leonardo da Vinci painting 'discovered'" published in *The Guardian* (UK), dated October 13, 2009, and available at http://www.guardian.co.uk/artanddesign/2009/oct/13/leonardo-da-vinci-painting-discovered.

44. Attached hereto as **Exhibit 41** is a true and correct copy of an article by James Bone entitled "It cost $5 in a junk shop, but could it be a $50m Pollock?" published by *The Times* (London), dated November 8, 2006.

45. Attached hereto as **Exhibit 42** is a true and correct copy of an article by Louise Baring entitled "Jackson Pollock for $5 - true or false? A row has erupted over a woman's claim that her junk-shop canvas is by the world's most expensive artist" published by the *The Daily Telegraph* (London), dated November 6, 2006.

46. Attached hereto as **Exhibit 43** is a true and correct copy of an article by Ben Hoyle, entitled "Finger points to a genuine da Vinci" published by *Canwest News Service* (Canada), dated October 14, 2009.

47. Attached hereto as **Exhibit 44** is a true and correct copy of an article entitled "In 100 years, a Da Vinci comes to light" published by *China Daily* (China), dated October 15, 2009, and available at http://www.chinadaily.com.cn/cndy/2009-10/15/content_8795619.htm.

Selected News Coverage About Biro's Claims in this Case

48. Attached hereto as **Exhibit 45** is a true and correct copy of an article titled "Paddy Johnson of "Art Fag City" Blog (and 10 others) Sued by Controversial Art Authenticator" published by *The Arts Journal*, dated December 12, 2011, http://www.artsjournal.com/culturegrrl/2011/12/paddy_johnson_of_art_fag_city.html

49. Attached hereto as **Exhibit 46** is a true and correct copy of an article by Melena Ryzik entitled "Forensic Analyst Sues Over New Yorker Article" published by NYTimes.com, dated July 4 2011, http://www.nytimes.com/2011/07/05/arts/design/forensic-analyst-sues-over-new-yorker-article.html?_r=0.

50. Attached hereto as **Exhibit 47** is a true and correct copy of an article by Julia Halperin entitled "Forensic Art Expert Peter Paul Biro Sues New Yorker for Defamation" published by *The Huffington Post*, dated July 7 2011, http://www.huffingtonpost.com/artinfo/whos-the-fabricator-here-_b_892131.html.

51. Attached hereto as **Exhibit 48** is a true and correct copy of an article by Dylan Byers entitled "Forensic Art Expert Sues 'New Yorker' Author Wants $2 million for defamation over David Grann piece," published by *Adweek*, dated June 30, 2011, available at http://www.adweek.com/news/press/forensic-art-expert-sues-new-yorker-author-133109.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York City, New York
November 9, 2012

Julia C. Atcherley

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 9th day of November, 2012, that I caused a copy of the foregoing document to be served upon all counsel of record by filing same on the court's ECF system.

I FURTHER CERTIFY that I caused a true copy of the DVD entitled "Who the #$&% Is Jackson Pollock?", which is part of Exhibit 9 to the foregoing document and which could not be e-filed on the court's ECF system, to be served by Federal Express standard overnight courier upon:

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